

*The Commonwealth of
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Department of State Police*

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COMMONWEALTH OF MASSACHUSETTS

April 12, 2019

SECRETARY OF THE COMMONWEALTH
SUPERVISOR OF PUBLIC RECORDS
RAO.Petitions@sec.state.ma.us
RE: SPR19/0665

DEPARTMENT OF STATE POLICE'S MOTION
FOR RECONSIDERATION OF DENIAL TO ASSESS FEE PETITION.

The Department of State Police (Department) hereby petitions the Supervisor of Public Records for reconsideration of its denial to assess a fee petition for costs associated with responding to a public records request submitted by Mr. Daniel Kaufman on February 11, 2019. Specifically, Ms. Kaufman submitted a public records request to the Department seeking the following:

"Any and all communications, memorandum, reports, and documents individually or jointly referencing the hate groups The Daily Stormer, Aryan Strike Force, and The Gallows Tree Wotansvilk Alliance."

The Department, through the Executive Office of Technology Services and Security (EOTSS), conducted a preliminary search of emails for the designated time period and advised that there are approximately 296 emails responsive to this request. Given the volume of information requiring review, the Department's good faith estimate of cost amounts to \$270.00. The Department submitted a fee petition on March 28, 2019. The Supervisor of Public Records denied this petition based on the fact that it was submitted more than ten business days after receipt of the request.

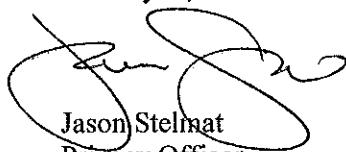
I would note that from the time the Department received this request, there was immediate and ongoing amicable communication, as routinely suggested and encouraged by the Supervisor of Public Records, between both parties from the time this request was received. The request was received on February 11, 2019. I responded to Mr. Kaufman on February, 15, 2019 and asked him if he could provide a date range for his request. That same day, Mr. Kaufman thanked me for the "speedy reply" and provided a date range of 01/01/15 – 02/15/2019. I immediately sent the search parameters to the Executive Office of Technology Services and Security (EOTSS). Upon receiving the results from EOTSS on February 19, 2019, I immediately notified Mr. Kaufman that an approximate cost for review and redaction of the

records would be approximately \$350 so that he could make a determination of how to proceed. . On February 23, 2019, Mr. Kaufman again amended his request by providing additional parameters to further refine his search. After inquiring with EOTSS, I responded to Mr. Kaufman on February 26, 2019 to inform him that the additional parameters would not affect the existing results. I further explained the cost by stating the amount of time needed to review the volume of emails alone would be approximately 15 hours. After considering all of this information, Mr. Kaufman replied approximately 2 weeks later on March 11, 2019, thanked me for the reply, and indicated that he would like to proceed with his request. Unfortunately, I was out of the office due to sickness on Friday, March 22nd and Monday, March 25, 2019. Upon arriving at the office on March 26th, I immediately notified Mr. Kaufman of my situation and asked if he would agree to an extension until Thursday, March 28th at 5:00pm in order to provide an official written and signed cost estimate which would correspond to the preliminary estimate I gave on February 19th. Mr. Kaufman replied the same day stating, "Sure thing. That date will be just fine. Hope you get well soon!"

As you can see, the entirety of the communication between the Department and Mr. Kaufman was carried out in an effort to resolve this matter swiftly and amicably and to reduce the burden of cost that often falls on the requestor. There was no purposeful delay on behalf of either side, but rather full and open communication with an eye toward resolving the request to the benefit of both parties. The 10-day fee petition deadline was only missed due to an unforeseen illness and the requestor was more than understanding about extending the deadline. Furthermore, I would note that Mr. Kaufman was already on notice of the approximate cost to fulfill his request within six business days of submitting his request. To deny a fee petition under these circumstances only discourages the open and ongoing communication between the parties on both sides of a public records request as is routinely encouraged by the Supervisor of Public Records.

The Department therefore requests that the Supervisor of Public Records reconsider its ruling in this matter and allow the Department to assess the previously requested fee.

Thank you,



Jason Stelmach
Privacy Officer
Commonwealth Fusion Center
Department of State Police

Cc: Daniel Kaufman